

REMARKS/ARGUMENTS

Claim Amendments

The Applicant has amended no claims. Applicant respectfully submits no new matter has been added. Accordingly, claims 1-30 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

Claim Rejections – 35 U.S.C. § 102(e)

Claims 1-10, 12-30 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Sevanto, et al. (US 6987779). The Applicant respectfully traverses the rejection of these claims.

The Applicant respectfully directs the Examiner's attention to claim 1, of which independent claims 14 and 27 are analogous and contain similar limitations.

1. (Previously Presented) A method for use in a mobile communications system where a mobile station communicates packet data over a radio interface with a radio base station system coupled to a packet node, comprising:

the mobile station sending a first message to the packet node requesting a packet communication the first message including a packet flow having a requested quality of service and a mobile station capability;

responsive to receiving the first message, the packet node sending a second message to the base station system including the mobile station capability, and

the base station system using the mobile station capability in evaluating whether the requested quality of service can be supported for the packet flow. (emphasis added)

MPEP § 2131 provides:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claims.

Contrary to the Examiner's statement that all elements are disclosed in the Sevanto reference, the Applicant respectfully submits that at least the elements regarding mobile station capability and the use of the capability to evaluate whether the requested quality of service can be supported for the packet flow are not disclosed. So, the rejection of claim 1 is unsupported by the art and should be withdrawn. The Applicant respectfully notes that the independent claims 14 and 27 have similar limitations and should also be withdrawn.

Claims 2-10, 12-13, 15-26 and 28-30 depend from claims 1, 14 and 27 respectively and recite further limitations in combination with the novel elements of claims 1, 14 and 27. Therefore, the allowance of claims 1-10 and 12-30 is respectfully requested.

Claim Rejections – 35 U.S.C. § 103 (a)

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sevanto et al (US 6987779) in view of Makela, et al. (US 7099687). The Applicant respectfully traverses the rejection of this claim.

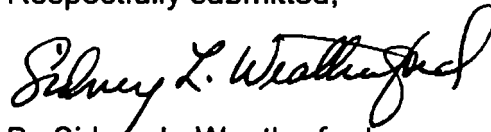
Because Sevanto is silent on the BSS requesting a download of a PFC message, the Makela reference is cited. As provided in MPEP § 2143, "[t]o establish a prima facie case of obviousness, ... the prior art reference (or references when combined) must teach or suggest all the claim limitations." The Applicant respectfully submits that Makela or Sevanto, either individually or in combination does not teach or suggest all the claim limitations contained in claim 11. The allowance of claim 11 is respectfully requested.

CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sidney L. Weatherford", written in a cursive style.

By Sidney L. Weatherford
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